

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

VACATIONS PUBLICATIONS, INC.
Plaintiff,

v.

AXIS INSURANCE COMPANY
Defendant.

§
§
§
§
§
§
§

CIVIL ACTION NO. 17-cv-978

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. § 1446(a), Defendant AXIS Insurance Company (“AXIS”) files this Notice of Removal and shows:

**I.
JURISDICTIONAL FACTS**

1. AXIS is a defendant in the state court action styled *Vacations Publications, Inc. v. AXIS Insurance Company*, Cause No. 2017-13436 in the 129th Judicial District Court of Harris County, Texas (the “State Court Action”).

2. Plaintiff, Vacations Publications, Inc. (“VPI”), filed its Original Petition in the State Court Action on February 27, 2017. On March 1, 2017, Corporation Service Company was served with a copy of the citation and Plaintiff’s Original Petition, as the service agent for AXIS. This Notice of Removal is therefore timely filed within thirty (30) days after AXIS was served in the state court action. *See* 28 U.S.C. § 1446(b).

3. This is a civil action over which this Court has original jurisdiction pursuant to 28 U.S.C. § 1332, and is one which may be removed to this Court pursuant to 28 U.S.C. § 1441, because the case is a civil action between citizens of different states wherein the matter in controversy exceeds the sum of \$75,000, exclusive of interest and costs.

4. This lawsuit involves a dispute over coverage under one of two insurance policies issued by AXIS to VPI for the underlying lawsuit styled *Karen D'Onofrio v. Vacation Publications, Inc.*, Civil Action No. 4:15-cv-00753 in the United States District Court for the Southern District of Texas, Houston Division, including defense costs that have been incurred or will be incurred therein. VPI asserts causes of action against AXIS for breach of contract, bad faith and violations of the Texas Insurance Code. *See Plaintiff's Original Petition*, §§ 21, 22 and 23.

5. In the Petition, VPI seeks “monetary relief against AXIS in excess of \$1,000,000” *Id.*, §2. The \$75,000 amount in controversy requirement of 28 U.S.C. §1332 is therefore satisfied.

6. Vacations Publications, Inc. is a corporation organized and existing under the laws of the State of Delaware. Its principal place of business is in Harris County, Texas. Under applicable law, therefore, VPI is (both now and when this action was filed) a citizen of the States of Delaware and Texas.

7. AXIS Insurance Company is a corporation organized under the laws of Illinois and has its principal place of business in Georgia. Under applicable law, therefore, AXIS is (both now and when this action was filed) a citizen of the States of Illinois and Georgia.

8. This Court has original jurisdiction over this action under 28 U.S.C. § 1332, and removal of this action to this Court is proper under 28 U.S.C. § 1441.

9. In accordance with 28 U.S.C. § 1446(a), an index and copies of all process, pleadings, and orders filed in the state court action as of this date, and a copy of the court's docket sheet are attached hereto as Exhibit “A.”

10. Promptly after the filing of this Notice of Removal, AXIS shall give written notice of the removal to VPI through its attorneys of record and to the clerk of the state court as required by 28 U.S.C. § 1446(d).

11. AXIS does not waive and specifically reserves any and all objections, exceptions, or defenses to the Petition, including but not limited to the right to move to have this case dismissed.

Respectfully submitted,

/s/R. Douglas Noah, Jr.

R. Douglas Noah, Jr.

Attorney-in-Charge

Southern District Bar No. 15287

doug.noah@wilsonelser.com

WILSON, ELSE, MOSKOWITZ,

EDELMAN & DICKER LLP

901 Main Street, Suite 4800

Dallas, Texas 75202

(214) 698-8000 (Telephone)

(214) 698-1101 (Facsimile)

Of Counsel:

Janet Tolbert

Southern District Bar No. 15287

janet.tolbert@wilsonelser.com

WILSON, ELSE, MOSKOWITZ,

EDELMAN & DICKER LLP

901 Main Street, Suite 4800

Dallas, Texas 75202

(214) 698-8000 (Telephone)

(214) 698-1101 (Facsimile)

ATTORNEYS FOR DEFENDANT,

AXIS INSURANCE COMPANY

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document has been served on all counsel of record via the Court's ECF electronic notice system on March 30, 2017.

/s/ Janet Tolbert _____

Janet Tolbert